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**Report of the International Law Commission
(74th Session, A/78/10)**

Cluster I

Chapter IV – General principles of law

Chapter VIII – Sea-level rise in relation in relation to international law

Chapter X – Other decisions and conclusions of the Commission

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Introduction

At the outset I would like to extend this delegation's congratulations to you for assuming the chairmanship over our Committee and ensure you of our continued support.

I express, as well, our appreciation to the Chair of the International Law Commission and to all members of the ILC for their continued efforts in ensuring a good progress of work on topics on the agenda of the Commission, relevant for the progressive development and codification of international law.

In what concerns the topics within the first cluster, so diligently introduced by the ILC Chair, my delegation would like to state the following:

Chapter IV: General principles of law

1. Romania congratulates the International Law Commission for adopting on first reading the draft conclusions and the responding commentaries on general principles of law. My delegation equally expresses its appreciation for the outstanding work on the topic of the Special Rapporteur, Mr. Marcelo Vazquez-Bermudez.
2. One of the thorniest issues relates to the existence of general principles of law that may be formed within the international legal system. We take note of the cautious language used in the draft conclusions and commentaries, which reflects the ample debates on this subject, as well of the explanations, arguments and examples.
3. However, as stated before by my delegation, we continue to have serious doubts as to the existence of a second category of general principles, *derived from the international law system*. We continue to argue that general principles of law as a source of international law could *only relate to those general principles derived within national legal systems*. We also maintain our position that the reference to general principles "derived from the international law system" conflates this concept with customary international law, a situation which must be absolutely avoided for reasons of legal certainty.
4. My delegation takes note that the International Law Commission has decided to submit the draft conclusions, through the Secretary-General of the UN, to Governments for comments and observations.
5. We hope this will allow further views and clarifications with respect to the relation between paragraph 1 of Draft Conclusion 10, and paragraph 1 of Draft Conclusion 11. While the latter text, in line with Article 38 of the ICJ Statute, excludes a hierarchical relationship between general principle of law and treaties and customary international law, paragraph 1 of Draft Article 10 states

that general principles of law are *mainly* resorted to when other rules of international law do not resolve a particular issue.

6. As regards the structure of the document, we believe that, in view of its importance and content, Draft Conclusion 10 “*Functions of general principles of law*” should be placed earlier in the text.

Chapter VIII: Sea-level rise in relation to international law

1. Romania continues to follow with great interest the Commission’s work on the seminal topic “Sea-level rise in relation to international law” and its widespread implications in the legal field.
2. We note that this activity of the Commission is undertaken against the background of a multiplication of diplomatic and legal initiatives concerning the subject of sea-level rise (either as a standalone issue or seen as part of the larger phenomenon of climate change). In particular, we recall the advisory proceedings started before ITLOS (on the obligations under UNCLOS to preserve and protect the marine environment and prevent its pollution) and before the ICJ (on the obligations of States in respect of climate change).
3. Such initiatives evidence the need for more clarity in respect of the legal dimension of sea-level rise and its effects, many of which are unprecedented. States need authoritative guidance on how to deal with sea-level rise impacts, in accordance with the provisions of UNCLOS and the other relevant norms of international law.
4. We commend therefore the ILC for this groundbreaking work and for tackling in such depth the various matters involved. We highlight, in particular, the Additional paper to the First Issues Paper, and we congratulate the Co-Chairs of the *Study Group on sea-level rise in relation to international law* for their work.
5. We welcome the manner in which the relevant issues were set out and framed in the Additional paper and especially the preeminence given to legal stability. We find this approach justified, given that the primary concern of States is the preservation of their maritime space from possible challenges grounded in the physical changes caused by sea-level rise.
6. We agree that, as noted by many States, and as reflected in the work of the ILC, UNCLOS does not forbid or exclude fixing both the baselines and the outer limits of maritime zones in the context of climate change-induced sea-level rise, as a legal solution to ensure the preservation of maritime zones.
7. At the same time, we underline that States might choose to update the charts and lists of geographical coordinates duly notified in accordance with the relevant provisions of UNCLOS, but they are not under an obligation to do so.

8. We should also not lose sight of the need to ensure universal respect for the legal framework provided by UNCLOS; any solution adopted in order to deal with sea-level rise must not depart from the provisions of UNCLOS.
9. We agree with other States that call for deeper international cooperation and support for the States that are in peril of losing in part or in total their territory.
10. Romania commends the Commission for its progressive approach on this very broad and multi-faceted topic and encourages it to continue its work on the subject.

Chapter X: Other decisions

1. This delegation welcomes the decision of the Commission to include the topic "*Non-legally binding international agreements*" in its programme of work, given the proliferation of this type of instruments in present day international relations, to the detriment of international treaties.
2. We would also like to see the ILC focusing on topics concerned with the interplay in between the international law and the new technologies: the impact of the new technologies on the application of international law (a study group on what type of adaptations/ interpretations, if any, international law need in order to preserve its core "functionalities" - to use a technological term - could be organized to this aim). We think that the international community must be equipped with the adapted legal vision to the multi-facet provocations raised by the technological advancement, which is already a fact and which is, also, irreversible.